

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

JOHN J. DIAMONT, JR.,

Defendant.

)
)
) CRIMINAL NO. 05-10154-MLW
)
)
)
)
)
)

**DEFENDANT JOHN DIAMONT'S OPPOSITION TO
GOVERNMENT'S MOTION TO DETERMINE WHETHER
AN ACTUAL OR POTENTIAL CONFLICT OF INTEREST EXISTS**

Defendant John Diamont opposes the Government's Motion to Determine Whether an Actual or Potential Conflict Exists. As defense counsel Michael Kendall has repeatedly informed counsel for the government, he has not made use of any confidential information obtained during his government representation during the course of his representation of Diamont, and there is no conflict. The mere reference in pleadings to publicly available information relating to a case in which Mr. Kendall represented the government is not sufficient to raise even the appearance of a conflict of interest. The Court may, of course, inquire of Diamont. Diamont is willing to waive any conflict that may exist.

Respectfully submitted,

JOHN DIAMONT

By his attorneys,

/s/ Lauren M. Papenhausen
Michael Kendall (BBO #544866)
Lauren M. Papenhausen (BBO #655527)
McDERMOTT WILL & EMERY LLP
28 State Street
Boston, MA 02109
617-535-4000
Fax: 617-535-3800
mkendall@mwe.com
lpapenhausen@mwe.com

Dated: March 20, 2007

CERTIFICATE OF SERVICE

I, Lauren M. Papenhausen, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on March 20, 2007.

/s/ Lauren M. Papenhausen

BST99 1535258-1.073607.0010